

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: JULY 12, 2006**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: ABEYANCE - VAR-11981 - APPLICANT: TIMOTHY NEAL -  
OWNER: DAVID MADDOX**

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***THIS ITEM WAS HELD IN ABEYANCE FROM THE JUNE 7, 2006 CITY COUNCIL  
MEETING AT THE REQUEST OF THE APPLICANT.***

**\*\* CONDITIONS \*\***

The Planning Commission (7-0 vote) and staff recommend DENIAL.

**Planning and Development**

1. Approval of and conformance to the Conditions of Approval for Variance (VAR-11904) and Site Development Plan Review (SDR-11902).
2. This Variance shall expire two years from the date of final approval, unless it is exercised or an Extension of Time is granted by the City of Las Vegas.

## **\*\* STAFF REPORT \*\***

### **APPLICATION REQUEST**

This is a request for a Variance to allow a five foot side yard setback where 10 feet is required and to allow a five foot rear yard setback where 20 feet is required for a proposed commercial building at 3340 North Rancho Drive.

### **EXECUTIVE SUMMARY**

The applicant is proposing a 9,751 square foot Retail/Showroom Warehouse building with five foot side and rear setbacks. This represents a deviation of 50% and 75%, respectively, from the requirements of Title 19.08. A reduction in the size of the project would eliminate the need for a setback variance.

### **BACKGROUND INFORMATION**

#### ***A) Related Actions***

- 11/01/95      The City Council approved an appeal of a Special Use Permit (U-0119-95) for an Off Premise Sign. The Board of Zoning Adjustments denied the request. Staff recommended denial.
- 04/13/06      The Planning Commission recommended denial of related items Variance (VAR-11904) and Site Development (SDR-11902) concurrently with this application.
- 04/13/06      The Planning Commission voted 7-0 to recommend DENIAL (PC Agenda Item #44/dr).

#### ***B) Pre-Application Meeting***

- 11/05/05      The elements of a Variance application were discussed. The applicant was informed of the requirements for setbacks per Title 19.08 for a commercial development.

#### ***C) Neighborhood Meetings***

A neighborhood meeting is not required as part of this application request, nor was one held.

## DETAILS OF APPLICATION REQUEST

### **A) *Site Area***

Net Acres: 0.49

### **B) *Existing Land Use***

Subject Property: Parking Lot and Storage  
North: Auto Repair Shop  
South: Open Air Sales Lot  
East: Dance Hall and Lounge  
West: Auto Body Shop

### **C) *Planned Land Use***

Subject Property: GC (General Commercial)  
North: GC (General Commercial)  
South: GC (General Commercial)  
East: GC (General Commercial)  
West: GC (General Commercial)

### **D) *Existing Zoning***

Subject Property: C-2 (General Commercial)  
North: C-2 (General Commercial)  
South: C-2 (General Commercial)  
East: C-2 (General Commercial)  
West: C-2 (General Commercial)

### **E) *General Plan Compliance***

The subject site is designated for GC (General Commercial) land uses within the Centennial Hills General Plan. The proposed Showroom Warehouse is in conformance with that designation and is consistent with the C-2 (General Commercial) zoning of the site.

SPECIAL DISTRICTS/ZONES	Yes	No
Special Area Plan		X
Special Overlay District	X	
Airport Overlay District	X	
Trails	X	
Rural Preservation Neighborhood		X
Development Impact Notification Assessment		X
Project of Regional Significance		X

**Airport Overlay District**

The subject site is located within the Airport Overlay District in which a Special Use Permit would be required for any structures that exceed a height of 70 feet. This application and the related items are not subject to this requirement as no structure exceeds the 70 foot height.

**Trails**

The subject site is located adjacent to the Rancho Corridor Trail Plan. The trail along this section has been installed and no further action is needed by the applicant.

**ANALYSIS**

***A) Zoning Code Compliance***

**A1) Development Standards**

Pursuant to Title 19.08, the following Development Standards apply to the subject proposal:

<b>Standards</b>	<b>Required</b>	<b>Requested</b>	<b>Compliance</b>
Min. Setbacks			
• Front	20 Feet	62 Feet	Y
• Side	10 Feet	5 Feet	N
• Corner	15 Feet	N/A	N/A
• Rear	20 Feet	5 Feet	N

The proposed project is in compliance for the front setback. However, the project provides for a side setback of five feet where 10 feet are required and for a rear setback of five feet where 20 feet is required. The subject deviation for the side setback is 50% and the subject deviation for the rear setback is 75%.

***B) General Analysis and Discussion***

This application is related to a Variance (VAR-11904) for a reduction in parking and a Site Development Plan Review (SDR-11902) for a proposed 9,751 square foot Retail/Showroom Warehouse building. A reduction in the size of the project would eliminate the need for setback variances.

**FINDINGS**

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by over building the site. An alternative design would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

6

**ASSEMBLY DISTRICT** 4

**SENATE DISTRICT** 1

**NOTICES MAILED** 123 by City Clerk

**APPROVALS** 0

**PROTESTS** 0